
Appeal Decision

Site visit made on 1 April 2014

by Roger Catchpole Dip Hort BSc (Hons) PhD MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 April 2014

Appeal Ref: APP/H0738/D/14/2213914
13 Greens Grove, Stockton-on-Tees TS18 5AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Maureen Plews against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 13/2522/RET, dated 14 November 2013, was refused by notice dated 13 January 2014.
 - The development proposed is described as a 'retrospective application for a timber structure in the rear garden to create stepped decks on a sloping site (to replace defective steps)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note the decking has been constructed and I have therefore dealt with the appeal on the basis that it concerns a retrospective application for development that has already occurred.
3. The Council have cited policy CS3 of the Stockton-on-Tees Borough Council Local Development Framework Core Strategy DPD 2010 (DPD) and paragraph 17 of the National Planning Policy Framework 2012 (the Framework) in their reason for refusal. However, as I find policy CS3 to be silent in relation to the main issue of this appeal I have given greater weight to the Framework.
4. I note that the Council intend to take enforcement action, however, this cannot be taken into consideration in an appeal under section 78 of the Town and Country Planning Act 1990 (as amended).
5. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.

Main Issue

6. The main issue is the effect of the proposal on the living conditions of existing and future occupants of Nos 11 and 15 Greens Grove.

Reasons

7. The decking is located to the rear of the property on a steeply-sloping garden that forms the side of a small valley along which the properties of Greens Grove are arranged. The host property is a semi-detached bungalow with

No 11 Greens Grove adjoining to the south west and No 15 forming the neighbouring property to the north east. The boundary with the former consists of a relatively low, slatted wooden fence whilst the boundary with the latter consists of a higher, close-boarded wooden fence. Both of the neighbouring gardens have been terraced and have a significant extent of level ground at the bottom of the slope, immediately adjacent to the rear garden boundaries.

8. I observe from my site visit that the decking is a substantial, multi-level structure that extends across the whole width of the garden. It consists of three main decks, as shown on plan GG 001. The layout and boundary features immediately to the rear of the host and neighbouring properties are such that I am satisfied that no significant loss of privacy is caused by deck 1 which is situated nearest the house. However, the same conclusion cannot be reached for the lower two decks.
9. Whilst a close-boarded fence panel has been placed at one end of deck 2, no such screening has been provided at the other end. As a result, clear views of the garden of No 11 are possible from the majority of the deck. The open nature of the balustrade also means that it is possible to view both of the neighbouring gardens when seated. Even if this were controlled through condition it would still be possible to directly overlook the neighbouring gardens when standing at the front of this deck.
10. Whilst the same issues are present in relation to deck 3, I observe that its proximity to the main, utilisable areas of the neighbouring gardens is such that the impact of this deck on privacy is considerably greater. This is because much closer views of the neighbouring gardens are possible. As with deck 2, I am not satisfied that these can be adequately controlled by condition. Moreover, this deck also has a significant overbearing and highly intrusive visual effect when viewed from the bottom of the neighbouring gardens.
11. Whilst the sloping nature of the gardens would have meant that clear views would have originally been possible from the top of the slopes, the elevated height of the decking above the neighbouring terraces and its proximity to the shared boundaries is such that a much greater degree of overlooking is now present. The appellant has suggested that the planting of evergreen shrubs and climbers will reduce the visual impact of the structure. However, this would only be an impermanent solution that cannot be relied upon to make an otherwise harmful development acceptable. This is because plants can easily die and can also be removed by future occupants.
12. As a result, I conclude that decks 2 and 3 have caused significant harm to the living conditions of existing and future occupants of Nos 11 and 15 Greens Grove through the overbearing nature of the structure and the loss of privacy that has occurred. As access to the bottom of the garden would be required and this would not be possible without the decking, I am unable to issue a split decision in this case. I therefore find that the whole of the proposal is contrary to paragraph 17 of the Framework that seeks, among other things, to ensure that development improves the places in which people live.

Other Matters

13. Whilst I have sympathy with the desire of the appellant to improve the amenity space for her family, this does not outweigh the harm that I have found it

causes to existing (and future) occupants of the neighbouring properties. Despite their lack of objection, paragraph 17 of the Framework makes it clear that planning decisions must also take account of the needs of future occupants. This is because whilst individual circumstances and the occupancy of buildings change, permanent structures and their harmful effects remain and must therefore be controlled.

14. I acknowledge that nearby gardens are terraced in order to make them more usable and that this has, in part, been achieved through the use of similar wooden decking in the gardens of at least two properties to the east. However, I do not have any evidence before me concerning the circumstances of those developments or whether they predate current policy. In any event, they are not directly comparable as they do not project into the gardens to the same extent.

Conclusion

15. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR